

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander Opoku-Agyemang	Team: Team # 5	CCRB Case #: 201105391	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 04/28/2011 1:45 AM	Location of Incident: West 116th Street, between Lenox Avenue and 5th Avenue	Precinct: 28	18 Mo. SOL 10/28/2012	EO SOL 10/28/2012	
Date/Time CV Reported Thu, 04/28/2011 4:22 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 04/28/2011 4:22 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Robert Abramson	02187	905644	PBMN AC
2. POM Wilfredo Acevedo	26116	937938	PBMN AC
3. POM Omar Perez	22355	928953	PBMN AC

Officer(s)	Allegation	Investigator Recommendation
A.SGT Robert Abramson	Abuse: Sgt. Robert Abramson supervised a stop of § 87(2)(b) and § 87(2)(b)	
B.SGT Robert Abramson	Abuse: Sgt. Robert Abramson supervised a frisk of § 87(2)(b)	
C.SGT Robert Abramson	Abuse: Sgt. Robert Abramson supervised a search of § 87(2)(b)	
D.SGT Robert Abramson	Abuse: Sgt. Robert Abramson supervised a frisk of § 87(2)(b)	
E.SGT Robert Abramson	Abuse: Sgt. Robert Abramson refused to provide his name and/or shield number to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On April 28, 2011, § 87(2)(b) filed a complaint with the CCRB on behalf of himself and his son, § 87(2)(b) via the Call Processing System (encl. 5A-B).

On April 28, 2011, at approximately 1:45 a.m., § 87(2)(b) and § 87(2)(b) were stopped by Sgt. Robert Abramson, PO Omar Perez and PO Wilfredo Acevedo of the Patrol Borough Manhattan North Anti-Crime Unit on West 116th Street between Lenox Avenue and 5th Avenue in Manhattan. The following allegations resulted:

- **Allegation A – Abuse of Authority: Sgt. Robert Abramson supervised a stop of § 87(2)(b) and § 87(2)(b)**
§ 87(2)(g)
- **Allegation B – Abuse of Authority: Sgt. Robert Abramson supervised a frisk of § 87(2)(b)**
- **Allegation D – Abuse of Authority: Sgt. Robert Abramson supervised a frisk of § 87(2)(b)**
§ 87(2)(g)
- **Allegation C – Abuse of Authority: Sgt. Robert Abramson supervised a search of § 87(2)(b)**
§ 87(2)(g)
- **Allegation E – Abuse of Authority: Sgt. Robert Abramson refused to provide his name and/or shield number to § 87(2)(b)**
§ 87(2)(g)
- § 87(4-b), § 87(2)(g)

This case was initially assigned to Investigator Lesley Henry on April 28, 2011, but was reassigned to Investigator Alexander Opoku-Agyemang on June 11, 2012, § 87(2)(g)

Results of Investigation

Civilian Statement(s)

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

CCRB Statements

On April 28, 2011, § 87(2)(b) filed a complaint with the CCRB (encl. 5A-B). On May 9, 2011, § 87(2)(b) provided a telephone statement (encl. 6A). On May 24, 2011, § 87(2)(b) was interviewed at the CCRB (encl. 6B-C); § 87(2)(g)

On April 28, 2011, at approximately 1:45 a.m., § 87(2)(b) and his son, § 87(2)(b) walked along West 116th Street between Lenox Avenue and 5th Avenue in Manhattan. § 87(2)(b) carried a carved walking cane in his hand for protection because they were out late at night. Approximately three plainclothes officers, identified through investigation as Sgt. Robert Abramson, PO Omar Perez and PO Wilfredo Acevedo, approached and exited an unmarked car. § 87(2)(b) described Sgt. Abramson as a white male, 5'7" tall, 150 lbs., with a receding hairline, and he described PO Perez as a Hispanic male, 5'11" tall, 250 lbs., with a shaven bald head. Sgt. Abramson stated, "Put your hands up," and grabbed § 87(2)(b) left arm and placed it behind his back while PO Perez held § 87(2)(b) right arm behind his back without handcuffs. Sgt. Abramson questioned § 87(2)(b) as to why he was carrying a walking cane and § 87(2)(b) stated that the cane belonged to § 87(2)(b). Sgt. Abramson and PO Perez searched § 87(2)(b) jacket and jeans' pockets. Sgt. Abramson removed § 87(2)(b) cell phone and then returned it.

§ 87(2)(b) described PO Acevedo as a Hispanic male. PO Acevedo approached § 87(2)(b) and frisked him. The officers did not request any identification or any information from § 87(2)(b) or § 87(2)(b). As the officers prepared to leave, § 87(2)(b) followed approximately two feet behind Sgt. Abramson and said, "I want your badge number," directly to him because he believed he was in charge. Sgt. Abramson did not respond and § 87(2)(b) said, "I'm going to report you to the CCRB." Sgt. Abramson responded, "So what." However, he did not provide his shield number as requested. The officers drove away and § 87(2)(b) recorded their license plate number as "§ 87(2)(b)".

§ 87(2)(b) and § 87(2)(b) went immediately to the 28th Precinct stationhouse and an unidentified Hispanic male officer provided the telephone number for the CCRB for § 87(2)(b) to file a complaint. § 87(2)(b) and § 87(2)(b) went to the 25th Precinct and an unidentified officer told § 87(2)(b) that the incident did not occur within the jurisdiction of the 25th Precinct and that the complaint should be filed with the 28th Precinct. § 87(2)(b) left the 25th Precinct and called his complaint into the CCRB.

Victim: § 87(2)(b)

- § 87(2)(b)

CCRB Testimony

On May 24, 2011, § 87(2)(b) was interviewed at the CCRB (encl. 8A-B). On April 28, 2011, at approximately 1:45 a.m., § 87(2)(b) observed an unmarked vehicle approach him and § 87(2)(b) as they were walking on West 116th Street between Lenox Avenue and 5th Avenue in Manhattan. § 87(2)(b) was carrying his father's walking cane for protection from robbers. Three officers identified through investigation as Sgt. Abramson, PO Perez and PO Acevedo, stopped their patrol car, exited and told § 87(2)(b) and § 87(2)(b) to put their hands up; they both complied.

Sgt. Abramson asked why § 87(2)(b) had a "stick" in his hand and then he approached § 87(2)(b) and placed § 87(2)(b) hands behind his back. Sgt. Abramson and PO Perez searched through § 87(2)(b) pockets and removed § 87(2)(b) wallet from his jeans' pocket. Sgt. Abramson also took § 87(2)(b) cell phone out of his hand and later returned the wallet and cell phone to § 87(2)(b) without using them for

any purpose.

PO Acevedo placed § 87(2)(b) in handcuffs and frisked him by patting him down. He did not enter or search § 87(2)(b) pockets. After approximately 15 minutes, the officers released § 87(2)(b) and § 87(2)(b) and walked towards their vehicle. § 87(2)(b) said, "I want your badge numbers to make a complaint at the CCRB." Sgt. Abramson said, "The CCRB, so what." The officers never requested any identifying information from § 87(2)(b) or § 87(2)(b) and they did not provide them with any information or a stop card.

NYPD Statement(s):

Subject Officer: SGT. ROBERT ABRAMSON

- *Sgt. Robert Abramson, § 87(2)(b) old at the time of the incident, is a white male, 5'7" tall, 170 lbs., with a receding hairline and hazel eyes. On April 27, 2011, Sgt. Abramson worked in plainclothes from 5:26 p.m. until 2:10 a.m. the next day with PO Perez and PO Acevedo in unmarked vehicle 8891.*

Memo Book

Sgt. Abramson's memo book entries indicate that at 1:40 a.m., two males were stopped for criminal possession of a weapon. A stop, question and frisk report to be prepared by PO Acevedo and PO Perez (encl. 10A-C).

CCRB Testimony

On October 12, 2011, Sgt. Abramson was interviewed at the CCRB (encl. 11A-B). On April 28, 2011, at approximately 1:40 a.m., Sgt. Abramson, PO Acevedo and PO Perez of the Patrol Borough Manhattan North Anti-Crime Unit drove along West 116th Street between Lenox Avenue and 5th Avenue in Manhattan. Sgt. Abramson observed § 87(2)(b) and § 87(2)(b) walk across the street in front of his patrol car. § 87(2)(b) was carrying a large stick in his hand and neither § 87(2)(b) nor § 87(2)(b) walked with a limp. Prior to the incident, Sgt. Abramson received information from the Intelligence Division and detective squads through multiple radio communications about a robbery condition within the confines of the 25th, 28th and 32nd Precincts involving individuals being robbed by other individuals carrying large sticks. Sgt. Abramson did not indicate that a robbery pattern sheet had been created for the occurrences.

Sgt. Abramson did not have a discussion with PO Perez or PO Acevedo prior to them stopping their vehicle. Sgt. Abramson approached § 87(2)(b) who said, "You are not touching me without probable cause. I'm gonna [file] a CCRB [complaint]. My uncle is § 87(2)(b)." (§ 87(2)(b) r). § 87(2)(b) raised his left arm in the air and Sgt. Abramson grabbed his arm and lowered it and held onto § 87(2)(b) arm for approximately 30 seconds for his safety, while PO Perez frisked § 87(2)(b). Sgt. Abramson did not order PO Perez to frisk § 87(2)(b). However, § 87(2)(b) behavior made it necessary for the officers to frisk him for their safety. Sgt. Abramson also feared that § 87(2)(b) had been carrying a weapon. However, he did not recall whether he observed a bulge in § 87(2)(b) clothing. Because of § 87(2)(b) confrontational behavior, Sgt. Abramson was forced to keep his back toward § 87(2)(b) who had been carrying a cane. Sgt. Abramson denied searching § 87(2)(b) or observing any other officer do so.

PO Acevedo approached § 87(2)(b) and frisked him because he had been carrying a stick. Sgt. Abramson did not order PO Acevedo to conduct the frisk, but it was done for the officers' safety. Sgt. Abramson did not recall whether he observed a bulge in § 87(2)(b) clothing.

Sgt. Abramson tried to explain to § 87(2)(b) that he had been stopped because § 87(2)(b) was carrying a large stick. However § 87(2)(b) cursed and complained about the stop. § 87(2)(b) did not request Sgt. Abramson's shield number and Sgt. Abramson did not verbally provide his shield number.

Subject Officer: PO OMAR PEREZ

- *PO Omar Perez, § 87(2)(b) old at the time of the incident, is a Hispanic male, 5'10" tall, 170 lbs., with brown hair and eyes. On April 28, 2011, PO Perez worked in plainclothes assigned to anti-crime with Sgt. Abramson and PO Acevedo from 5:30 p.m. until 2:05 a.m., in an unmarked vehicle.*

Memo Book

PO Perez's memo book indicates that at 1:40 a.m., one black male was stopped at East 116th Street and Lenox Avenue for criminal possession of a weapon (encl. 12A-C).

CCRB Testimony

On December 14, 2011, PO Perez was interviewed at the CCRB (encl. 13A-B); § 87(2)(g)

On April 28, 2011, at approximately 1:40 a.m., PO Perez, PO Acevedo and Sgt. Abramson observed § 87(2)(b) and § 87(2)(b) on West 116th Street between Lenox Avenue and 5th Avenue in Manhattan. § 87(2)(b) carried a cane in his hand and he and § 87(2)(b) crossed the street upon viewing the officers' patrol car. This led PO Perez to make a U-turn and approached them.

§ 87(2)(b) said, "Fuck you," and used other obscenities towards the officers upon their approach. § 87(2)(b) placed both of his hands inside of his front pants pockets and let them remain there. PO Perez did not tell § 87(2)(b) to remove his hands and he did not know whether Sgt. Abramson told him to remove his hands. Sgt. Abramson and PO Perez held § 87(2)(b) arms and PO Perez conducted a frisk of his waistband and pockets due to § 87(2)(b) irate behavior. PO Perez did not recall whether § 87(2)(b) hands were inside of his pockets or whether he removed them to conduct the frisk. PO Perez denied that he or Sgt. Abramson ever searched § 87(2)(b) pockets. PO Perez denied that § 87(2)(b) ever requested the name or shield numbers of any of the officers involved and none of the officers provided such information. PO Perez did not know whether PO Acevedo frisked or searched § 87(2)(b)

Subject Officer: PO WILFREDO ACEVEDO

- *PO Wilfredo Acevedo, § 87(2)(b) old at the time of the incident, is a Hispanic male, 6'1" tall, 290 lbs., with a shaven bald head and brown eyes. On April 28, 2011, PO Acevedo worked in plainclothes from 5:30 p.m. until 2:05 a.m., assigned to anti-crime with Sgt. Abramson and PO Perez in an unmarked vehicle.*

Memo Book

PO Acevedo's memo book indicated that at 1:40 a.m., he stopped a black male, age § 87(2)(b) carrying a stick (encl. 14A-B).

CCRB Testimony

On December 14, 2011, PO Acevedo was interviewed at the CCRB (encl. 15A-B); § 87(2)(g)

On April 28, 2011, at approximately 1:40 a.m., PO Acevedo observed § 87(2)(b) walking while holding a cane over his shoulder. PO Acevedo received information from a "tactical plan" placed on his desk by an

unknown individual indicating that robberies had occurred in the vicinity of the 25th Precinct by individuals carrying large sticks or canes. PO Acevedo did not recall whether there were any additional factors other than the cane that caused the officers to stop § 87(2)(b) and § 87(2)(b).

Upon approach, § 87(2)(b) immediately became combative before the officers said anything. PO Acevedo told § 87(2)(b) to put the cane down and § 87(2)(b) complied. PO Acevedo frisked § 87(2)(b) along his sides for “safety measures,” because often times the people involved in the robberies with canes have additional weapons. PO Acevedo did not recall whether he observed any bulges in § 87(2)(b) clothing and he did not have any indication that § 87(2)(b) had been carrying a weapon in addition to the cane he had placed on the ground.

PO Acevedo did not observe Sgt. Abramson or PO Perez frisk or search § 87(2)(b). PO Acevedo did not recall whether § 87(2)(b) placed his hands in his pockets. PO Acevedo did not recall whether § 87(2)(b) requested Sgt. Abramson’s shield number or whether Sgt. Abramson provided such information.

NYPD Document(s)

Manhattan Robbery Patterns 2011

The pattern sheet indicated that no patterns existed that involved individuals being robbed by other individuals armed with canes and/or sticks (encl. 16A-E).

Summons/Arrest for Incident and Disposition

§ 87(2)(b) and § 87(2)(b) were not issued summonses or arrested on the date of the incident.

Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of February 13, 2012, more than six months after the 90-day filing deadline passed, with regard to the incident (encl. 17).

Civilian(s) Criminal Conviction History

- As of February 13, 2012, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) or § 87(2)(b) (encl. 18A-B).

Civilian(s) CCRB History

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]

Subject Officer(s) CCRB History

- Sgt. Abramson has been a member of the service for 18 years and there are no substantiated CCRB allegations against him (encl. 3A-B).
- PO Perez has been a member of the service for 10 years and there are no substantiated CCRB allegations against him (encl. 3C).
- PO Acevedo has been a member of the service for 6 years and there are 2 substantiated CCRB allegations against him (encl. 3D-E):

- In case 200707736, a retaliatory summons and a discourtesy allegation were substantiated against him and he received a command discipline.

Conclusion

Identification of Subject Officer(s)

Sgt. Abramson, PO Perez and PO Acevedo each acknowledged their interaction with § 87(2)(b) and § 87(2)(b) in such a way that a supervised stop, frisk and search and refusal to provide name and shield allegation were pleaded against Sgt. Abramson. § 87(2)(g), § 87(4-b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegations not Pleaded

§ 87(2)(b) alleged that he was not allowed to file a complaint at the 25th Precinct stationhouse; however, the unidentified officer provided him with the telephone number to file his complaint directly with the CCRB; § 87(2)(g)

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Sgt. Robert Abramson supervised a stop of § 87(2)(b) and

§ 87(2)(b)

It is undisputed that Sgt. Abramson, PO Perez and PO Acevedo stopped § 87(2)(b) and § 87(2)(b) on West 116th Street between Lenox Avenue and 5th Avenue in Manhattan. It is undisputed that § 87(2)(b) had been carrying a cane in his hand at the time the stop occurred. Sgt. Abramson stated that he received information from the Intelligence Division and the detective squads of the 25th, 28th and 32nd Precincts through radio communications about a robbery condition that involved large sticks and/or canes. The robbery pattern sheet indicated that no such patterns existed for that particular condition.

In order for a stop to be justified, an officer must have a reasonable suspicion that a person is committing, has committed or is about to commit a crime. People v. DeBour, N.Y. 2d 210 (1976) (encl. 1A-L).

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation B – Abuse of Authority: Sgt. Robert Abramson supervised a frisk of § 87(2)(b)

While § 87(2)(b) did not allege that he had been frisked, but searched as Sgt. Abramson and PO Perez had allegedly entered his pockets and removed a cell phone and wallet, Sgt. Abramson and PO Perez attested that § 87(2)(b) was only frisked. Sgt. Abramson and PO Perez were consistent in that § 87(2)(b) behavior led them to fear for their safety. However, they provided contradictory statements regarding § 87(2)(b) actions. Sgt. Abramson stated that § 87(2)(b) raised his left arm in the air and PO

Perez stated that § 87(2)(b) placed his hands inside of his pockets, and as such, § 87(2)(b) was frisked. Neither Sgt. Abramson nor PO Perez recalled whether they observed a bulge in § 87(2)(b) clothing.

In order to frisk a person, an officer must have reasonable suspicion that a person is armed. DeBour. Placing one's hand in their pockets may provide a lawful basis for a frisk only when done in response to repeated commands to keep one's hands out of their pockets People v. Robinson, N.Y. 278 A.D.2d 808 (2000) (encl. 1M-N).

According to Patrol Guide Section 212-11, an officer can frisk an individual if they reasonably suspect that they or others are in danger of physical injury (encl. 2A-C).

§ 87(2)(g)

Allegation C – Abuse of Authority: Sgt. Robert Abramson supervised a search of § 87(2)(b)

§ 87(2)(b) alleged that both Sgt. Abramson and PO Perez searched his clothing and his testimony was supported by § 87(2)(b). All three officers denied searching either § 87(2)(b) or § 87(2)(b) during this incident. A stop, question and frisk report was not prepared by Sgt. Abramson or PO Perez regarding the encounter with § 87(2)(b). § 87(2)(g)

Allegation D – Abuse of Authority: Sgt. Robert Abramson supervised a frisk of § 87(2)(b)

It is undisputed that PO Acevedo frisked § 87(2)(b) under the supervision of Sgt. Abramson. PO Acevedo's justification was that § 87(2)(b) had been carrying a cane unnecessarily and he had been suspected of being engaged in criminal activity because of such. PO Acevedo acknowledged that § 87(2)(b) was compliant during the encounter and that when told to put down the cane, § 87(2)(b) complied. Neither PO Acevedo nor Sgt. Abramson recalled whether they observed a bulge in § 87(2)(b) clothing and PO Acevedo acknowledged that he did not have any indication that § 87(2)(b) had been carrying an additional weapon other than the cane he had placed on the ground.

An officer can frisk an individual if they have a reasonable suspicion that the person is armed. Debour (encl. 1A-L).

§ 87(2)(g)

Allegation E – Abuse of Authority: Sgt. Robert Abramson refused to provide his name and/or shield number to § 87(2)(b)

§ 87(2)(b) alleged that he requested Sgt. Abramson's name and shield number, however, Sgt. Abramson refused to provide it to him. As such, § 87(2)(b) recorded the license plate of the officers' unmarked patrol car. § 87(2)(b) confirmed § 87(2)(b) statement. Sgt. Abramson denied that his name and shield number were ever requested and his statement was corroborated by PO Perez, while PO Acevedo did not

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Team: 5

Investigator: _____ Alexander Opoku-Agyemang June 19, 2012
Signature Print Date

Supervisor: _____

Title/Signature	Print	Date

Reviewer: _____

Title/Signature	Print	Date
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Reviewer: _____

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